

SPEECH

OF

MR. BARNITZ, OF PENNSYLVANIA,

ON

THE SUBJECT OF THE BANK OF THE UNITED STATES,

AND THE

REMOVAL OF THE PUBLIC DEPOSITES.

DELIVERED

IN THE HOUSE OF REPRESENTATIVES,

1834.

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S P E E C H.

MAY 19, 1834.

In the House of Representatives, Mr. BARNITZ, of Pennsylvania, presented the memorial from citizens of York county, Pennsylvania, praying a restoration of the deposits, and a recharter of the United States Bank, with modifications, and offered to the consideration of the House the following resolutions:

Resolved, That the removal of the public deposits made in the United States Bank, before the 1st of October last, was not authorized by law.

Resolved, That the reasons of the Secretary of the Treasury, for removing and withdrawing the public deposits, are insufficient.

Resolved, That the Committee of Ways and Means be instructed to bring in a bill to recharter the United States Bank for a limited period, with such limitations and provisions, as to the capital stock and the powers and duties of the directors, as may be deemed expedient.

In support of the measures and principles embraced in the resolutions, Mr. BARNITZ addressed the House as follows:

Mr. SPEAKER: In obtaining the floor on this important and exciting subject, I shall endeavor to deserve the indulgence awarded to me, by presenting my views in a form as much condensed as possible. I cannot offer to the consideration of the House any thing new; the utmost I can aspire to, will be some illustrations of the great principles and topics involved in this debate, which may not be considered wholly uninteresting.

The subject, as now presented, involves an examination of the policy of the Government in relation to the public revenue, its custody and disposition; it also embraces a discussion of the powers of Congress, and the rights, duties, and obligations of the United States Bank, under its charter.

It is now no longer doubted, or denied, that a state of serious embarrassment affects the business concerns of the community, in every section of our extensive country; every mail that reaches the capitol, whether from the far West or the distant East, comes laden with the complaints of our suffering fellow-citizens, and their prayers for relief; they come, too, with this aggravation: We suffer not, say they, under our own misfortune or misconduct; we suffer not under any dispensation of Providence; no, we are prostrate under the measures of our own Government; the very arm is uplifted against us, and strikes the blow, to which we would look for succor and protection.

I was one of those, who, in the early stage of these measures of the Administration, believed they would chiefly affect our commercial cities, having immediate connexions with the Bank. I was in error; their baleful influence pervades every section of the interior, and, like the blast of the sirocco, corrupts and destroys the life-blood of social intercourse, credit and confidence between man and man; paralyzing the exertions, the energies, the hopes of the community, throughout the whole land.

It is now about six months since I first left my home; at that time, although the storm lowered in the distance, it had not yet reached us. I left my fellow-citizens in the enjoyment of plenty, and reposing in security; through our fertile valleys, and even to the summits of our green hills, the cheering voice of thriving labor was every where heard, and the exertions of well directed industry every where witnessed; while the farmer, the great source of our prosperity, dispensed his abundance to all around, in his varied intercourse with society. But this scene is greatly changed, and changing every day; I do not mean to say, that there is actual suffering for want of the common necessities of life; in a country so blessed as ours, that could not be. It is in the intercourse of business and the concerns of trade, that our citizens are overtaken by this calamitous state of things; embarrassing their plans of improvement, and deranging their hopes of prosperity and advancement, so that the utmost that industry and enterprise can attain, is to continue stationary, waiting better days; while others, less fortunate or persevering, are sinking under a pressure they cannot withstand or avert. Sir, this is not "a mere sketch of fancy;" our commercial and manufacturing interests, from the highest state of prosperity, are suddenly sunk to a disastrous and ruinous condition, and our agricultural prospects must necessarily be deeply affected. My respectable colleague, who addressed the House a few days since, [Mr. ANTHONY,] denied that our agricultural interests had suffered, and, as a reason, exhibited statements of produce prices for the last few years, showing that they now are not much depressed below the measure of former times. Sir, this argument is fallacious; it must be recollected that in the country from which he derives his information, extensive State improvements are in progress, which furnish a present market for produce to a great extent; and we may remark, that before the pressure had commenced, the farmers of the interior of Pennsylvania had disposed of the largest portion of their surplus products; so that little is left beyond what may be required for home consumption. A comparison with prices of former years cannot be satisfactory, as the circumstances and demands of each year will affect its prices; but if the rates of labor or of produce are at all tolerable now, how much more so would they be under a high and prosperous state of our commercial and manufacturing interests; instead of the ruinous condition in which we now find them under the operation of this political experiment, which cramps and shackles our best exertions?

The county of York, which I represent, and the interior of Pennsylvania, generally, is a great workshop of operative industry; there are few men of capital there who can subsist without some regular employment; our people depend on some constant and daily engagements of business for their subsistence and prosperity. In a community like this, is the very place for the beneficial use of credit to a reasonable extent, and of a sound currency. It is thus that enterprise and industry receive their reward at the proper and convenient time, and in the appropriate value. The tradesman collects his bills quarterly, half yearly, or at certain periods only; the manufacturer or mechanic on a larger scale, when his job is completed; the farmer, when his crops are sold; and thus it is, in a great measure, throughout all the various occupations and engagements of our citizens. In the mean time, all must live and obtain the necessities, the comforts, and conveniences of life, which their situation requires. These, according to a course which has long been established, are obtained, to a great extent, from the various merchants in the interior, upon a credit founded, and safely founded in prosperous times, upon

the expected returns of industry, to be repaid out of the profits of business. The merchant in the country obtains his credit to the usual amount from the merchant in the city, and he in turn has his accommodations from the United States Bank, the great centre and source of the active capital of the country. Thus the accommodation and credit originally obtained from the Bank is extended from the one to the other, in a beneficial course, until it reaches, in some useful degree, to every workshop and every cottage; and those acquainted with the operations of business, know that these benefits have been extensively enjoyed, although, in a manner, silent and imperceptible, until a derangement of the course made us to feel and to perceive the injurious cause. In a community where the means are furnished, by which our citizens can be supplied with the necessities and comforts of life, out of the returns or profits of their business, that must necessarily be a prosperous and improving condition. On the other hand, where these must be procured by encroaching on other means, or on the stock in trade, this is a situation which cannot be advancing or successful, and, if continued, must end in embarrassment and ruin. Every one can understand this, and, understanding it, can distinctly trace the cause of the present alarming state of things.

The United States Bank, under the measures of the administration, is pressed and required to wind up its concerns, to call in its loans and accommodations, more than two years before its charter ends. The public moneys, a fund on which vast accommodations were extended to the community, are withdrawn and given to those who, through their own embarrassments and various engagements, can make no beneficial use of them. The consequence is, that the merchant in the city is pressed; he presses the merchant in the country; and he, in his turn, must press his various customers; and, whilst he thus drains them prematurely of their means, he must inform them that, in future, his business must be a cash business, or that a very limited and uncertain credit only can be afforded. I conclude this part of the subject by adopting the strong but plain positions which the gentleman from Massachusetts [Mr. CHOATE] so ably and eloquently sustained—that our true policy is, to allow the people the use of their own money; and that the withdrawal of their own funds from their own beneficial use, is the true cause of their present embarrassments.

With regard to the currency, it is indeed a matter of surprise to hear from any quarter a denial that this Bank has furnished a sound and useful currency to the people. We all know that it was owing to the measures and influence of this Bank that specie payments were resumed in 1817; and that, by it, a useful paper currency was established which is at home every where. Sir, it is a fact, of every day's observation with those at all conversant in business in the interior, that those who travel, and those who emigrate to distant places, constantly apply for paper of the United States Bank, offering specie in exchange for it; and thus declaring the truth, that this is a currency equal in value, and for general purposes more convenient even than specie. As matters now stand, we distinctly see that the times of 1815 and '16 are approaching; for we already find that the best local bank paper does not furnish a currency beyond its own State line.

It is my desire, Mr. Speaker, to examine this interesting subject argumentatively; and I will, therefore, endeavor to define several important terms and powers from the various uses of which different conclusions have been drawn. The Treasury of the United States has been defined, by a late distinguished Senator from Virginia, in the abstract merely, as a state and condition of the

public revenue; and this definition has been carefully followed by others: to give it the attribute of place would totally destroy the great conclusion of the Secretary. The Treasury, sir, is a *place* for the keeping of the public moneys, while in the custody and under the responsibility of the Treasurer. It is a place, a local habitation as well as a name, as much so as the vault of a bank is the place for keeping its treasure; it has length, breadth, depth, the attributes of space; it need not be in one spot; but all the parts taken together constitute in law one place, and that place is the Treasury. Another term which has occasioned misunderstanding, is the term *deposit*. The public moneys are one thing, the deposits are a different thing. When the public moneys are deposited they are no longer the moneys of the Government; they are the property of the Bank, and under its entire control; the Government becomes the creditor, the Bank the debtor. The 16th section of the Bank law* refers only to public moneys before they are deposited; it is only prospective, and does not authorize the Secretary to interfere with deposits already made. The 15th section relates altogether to deposits which *have been* made, and these can only be removed or changed for the immediate purposes of disbursement under appropriations by law. The removal of the deposits made before the 1st of October last, for the avowed purpose of giving the use of them to other depositories, was a manifest abuse of the provisions of the 15th section, and a palpable violation of the public faith. The United States Bank had a clear right to the use of those deposits until transferred for disbursement; and a removal, under color of law, for a different purpose, was as illegal as it was unjust. It was this breach of the public faith that produced the embarrassment and distress which first overtook the commercial community, and has since spread its destructive influence over the land. This removal for an illegal purpose was consummated by a contract with those State banks, made by the Secretary; also in the face of an existing act of Congress, declaring that no contract shall be made by the Secretary of the Treasury, except under an express law.† Such contracts being forbidden, no legal obligation could arise out of them, as every lawyer knows. Thus were the public funds, by the agent of Congress, taken from the place of acknowledged safety and ample responsibility, provided by law, and placed in depositories established for State purposes only; not under the control of Congress; the safety of which could be but imperfectly ascertained or known, and the legal obligation of repayment at least doubtful. What stronger proofs of these positions can we require, than the very bill on our tables, reported by the Committee of Ways and Means—the obvious and only design of which can be, to give legal effect and establish legal responsibilities in regard to such contracts?

* Act incorporating the Bank, sections 15 and 16.

Sec. 15. During the continuance of this act, and whenever required by the Secretary of the Treasury, the said corporation shall give the necessary facilities for transferring the public funds from place to place, within the United States, or Territories thereof, and for distributing the same in payment of the public creditors, without charging commissions or claiming allowance on account of difference of exchange; and shall also do and perform the several and respective duties of the commissioners of loans for the several States, or any one or more of them, whenever required by law.

Sec. 16. The deposits of the money of the United States, in places in which the said Bank and branches thereof may be established, shall be made in said Bank or branches thereof, unless the Secretary of the Treasury shall at any time otherwise order and direct; in which case the Secretary of the Treasury shall immediately lay before Congress, if in session, and, if not, immediately after the commencement of the next session, the reasons of such order or direction.

† Act of May 1, 1820, sec. 6.

The Committee of Ways and Means, in their late report, endeavor to claim for the Secretary of the Treasury powers that appear to be without limitation, unless by executive decree; and it is by this operation they labor to sustain his acts. Can it be believed for a moment, sir, in a Government like ours, a Government of laws, where authorities created are defined, and responsibilities specially provided, that the whole revenues of the nation are left under mere constructive powers, which may be interpreted so as to suit the interests or the will of those who may have obtained the reins? No, this cannot be; the constitutional powers of the several departments are too well settled to be overturned by new theories, got up to sanction political experiments. The act of 1789, establishing the Treasury Department, was made for the very purpose of superseding all previous and unsettled practices, and of defining the precise action of these two important officers—the Secretary and Treasurer. On reference to that act,* it will be found that the Secretary has no discretionary power beyond superintending the *collection* of the revenue. When the revenue is collected, another officer, the Treasurer, is appointed to take it into his custody; and his responsibility then commences, and continues, without the interference of any other, until it be disposed of by express law, either depositing it in the Bank legally provided, or disbursing it under legal appropriation. Congress, composed of the representatives of the people, constitutes that department of the Government which alone has the constitutional charge of the public moneys; Congress raises the revenue, has the custody of the revenue, and disburses the revenue. The Secretary and Treasurer are the mere agents of Congress, to take charge of the public funds in the manner prescribed to them; the Secretary gives no security, because he has no part in the custody of the moneys; security is required from the Treasurer, because he has the actual keeping of them. It is true, the Secretary joins with the Treasurer in disbursing warrants under appropriations of Congress; but he has no power to order a single dollar to be changed from the custody and responsibility of the Treasurer. The powers given by the 16th section of the Bank law go not one jot or tittle further than to order a continuance of the money in the Treasury, but not to remove or change its custody, or the responsibility attached to it. When the Treasurer deposited moneys in the United States Bank, his security was discharged, *pro tanto*, and the charge devolved upon the Bank until actual disbursement. The transfer order was a mere notice, intended to meet the distant wants of the Government, in its payments; but not until actual payment, under warrants, was the Bank discharged.

I beg the indulgence of the House while I briefly examine the power of the Secretary under the 16th section of the Bank charter, already referred to. By this section, it is provided that the deposits of the public moneys of the United States shall be made in the United States Bank or branches, unless the Secretary of the Treasury at any time otherwise order and direct. Now, sir, here is a specific act to be done; the public moneys are to be deposited in the Bank, unless the Secretary order otherwise; that is, they shall not be so deposited. Here is the simple affirmative, and here is the simple negative; and no construction of a grammatical kind, nor any legal interpretation, can go further. Analyze the section by reducing it to its most simple terms, and it stands thus: The Treasurer shall place the public moneys which he may have received into the Treasury, in the Bank, on deposit, unless the

* Passed September 2, 1789.

Secretary shall, at any time, order him not so to deposit them. Here is the extent of the order, the limit to the power. What, then, becomes of the public moneys? They remain just where they ought to be—in the treasury; in the custody and power of Congress, where no other power can control or interfere with them. This place is presumed to be ample and capacious for their reception and keeping; they are under sufficient responsibilities until Congress can act further, if deemed expedient. But the Secretary assumes a new and distinct power, and that is, not only to order the moneys to be withheld or suspended, but again to *take them out* of the treasury, and place them on deposit where he pleases. Now, if by his first order to withhold, the public moneys were exposed, as it were, on the highway, had not a place of legal keeping and responsibility, he might argue, as a matter of necessity, the power to provide some other place of safety or deposit; but when they remain in the proper legal custody, he has no power further to interfere. Here we see the reason why gentlemen have so ingeniously argued that the treasury is not *a place*; that it is a mere abstract state or responsibility; and, being such, place was only an incident following the responsibility; and there being none assigned, the necessity of the case threw it upon the Secretary to provide a place or places. Sir, the Treasury Department was established in 1789, before any United States Bank was created; and, from the very nature of the case, an appropriate legal place was then provided for the public revenues, and has ever since been continued. The Secretary argues in his letter through nineteen pages, to prove his right, in the first instance, to withhold the deposits; he then* says: "The propriety of removing the deposits being thus evident, and it being consequently my duty to select the places to which they were to be removed," &c. Here is no argument to show this important consequence or additional power whatever; he assumes it, and this very assumption, contained in a single sentence, is the foundation of the alarming attempt which takes the whole revenue out of the hands of Congress, and places it at the will of the Executive. It is this very stretch of power which has created the greatest excitement and just alarm; it is this which creates a scramble for patronage, arising out of the deposits; it is this which, in reality, will get up political influences in banks spread over the whole country, as candidates for executive favor, and will necessarily bring the selected banks into the field. But, sir, carry out this monstrous power, and see to what it leads you. It leads to what is so much deprecated—a direct union of the purse and the sword. Gentlemen have argued that this union would be effected by reason of the original right claimed by the Executive, of controlling the appointment of a Secretary until one was found disposed to obey him; but, under the view I have taken, the Secretary claims the exclusive right to place the revenue where he pleases. He argues that the Executive may control his acts, and take the responsibility; and, as he is responsible, the conclusion is, he should in fact be the keeper of the fund. Here, at the will of the President, acting immediately, the revenues are directly in his power, and, in effect, in his hand; that is, the commander of the army and navy is also the commander and keeper in fact of the Treasury. The argument of the Secretary in his letter, and those who sustain him, has this course: Congress has parted with its power over the revenues; has given it to the Secretary absolutely; the Secretary acts under the influence and entire control of the President, and may place it in his hands, as the person responsible, and then it can only be re-

* See Secretary's letter, with his reasons, to Congress, page 19.

claimed by an act of legislation: and that act may be stayed by the veto of the very hand that holds the money. Never was a political contrivance more perfect; and if it can be sustained, the act incorporating the Bank should be changed in its title, and should be called an act to place the revenues of the United States in the power and keeping of the President of the United States; and Congress will, by a deliberate act, have given up its most important constitutional right and duty, the control and disposition of the public funds. The course adopted by the Secretary and the Committee of Ways and Means leads directly to the extraordinary and alarming results I have stated; whereas the construction I have offered admits to this officer only a limited authority to suspend the action of the Treasurer in making the deposits; keeping each Department in its proper sphere, and leaving the revenues where they should be—in the treasury, in the power and under the direct control of Congress alone. What the subsequent action of Congress may be, I shall, under an appropriate part of this discussion, present to the consideration of the House.

Permit me here to make a digression from my course of argument, for the purpose of noticing some of the prominent views which have been ingeniously offered from time to time, by those who sustain these measures of the administration. When, in the early stages of the discussion, it was alleged that serious embarrassments and distress affected the community; the fact was denied, or lightly treated, until the thunder rolled over our heads, and "the bolts came thick and fast" upon us from the east and the west, the north and the south: so that no refuge could longer be found under the covering of denial. Our hopes were next appealed to, and we were assured that these troubles would soon pass away; for that the void which was created by the necessary curtailments of the Bank would be soon filled up by the issue of the new depositories; that it was only removing nine millions from one side of a street to the other. This was but "the word of promise to the ear," as we soon experienced; the nine millions, the sum on deposit, before it was removed, was kept in beneficial employment and active circulation in the community, through the instrumentality of the United States Bank. The Bank receives its doom from Executive power; it is told to stop and wind up its concerns; it must necessarily withdraw from the community a sum sufficient for the repayment of the deposits. The selected State banks, it is soon found, have their own troubles, and embarrassments, and home obligations to answer; so that they can neither supply the void nor afford relief. A new argument is next resorted to, and we are gravely assured that it is utterly impossible that the withdrawal of nine millions from a circulation of more than a hundred millions, could cause general distress. This view soon appeared as fallacious as others; for it must be remembered that nine millions in active circulation may discharge debts and obligations between man and man, in a business community, exceeding a hundred millions. One receiving his claim is enabled to pay his debt to another, and thus a sum, comparatively small, discharges responsibilities to a great aggregate amount.

All these resources failing, our ingenious opponents resort to another course, and endeavor to shift the responsibility of these ruinous measures, by throwing the odium upon others; they allege, we have excited alarm and *panic*, and this has occasioned the distress and embarrassment which prevail; panic is not a cause, it is an effect or consequence arising suddenly from an imaginary cause; the just apprehensions of men, under approaching danger and evils, which they see and feel around and about them, do not constitute panic. The very case which was related by my colleague (Mr. ANTHONY) in his ar-

gument, was the strongest condemnation of his own views, and the best illustration of mine: his story was, that three physicians combined to try the effects of panic upon a healthy subject. They select a man in *full and perfect health*; one of them meets him, and assures him his appearance indicates disease; the subject declares he feels as well as usual; soon after, a second meets him, and repeats the dose, which produces some alarm, and after the third meets him and makes a still stronger application; it takes serious effect; the poor subject becomes really ill, and dies in consequence. Now the whole force and point of this story rests upon the fact, that the subject was in full health and vigor before the operations commenced; and here is the precise difference between the case referred to and that which we have before us. In that which we have charge of, the friends of my colleague had been trying a course of experiments upon the body politic, their patient; they destroyed a *healthy circulation*, shattered his *constitution*, brought on a wasting *consumption*, and at length abandoned him to his fate. Others are called to the relief, and as a matter of conscientious duty, they assure the patient he has been the subject of improper treatment; that there is no hope but in retracing his steps, and resorting to different remedies. This was required by every consideration of humanity, duty, and conscience; and I thus leave to gentlemen to determine which of the two cases the story best illustrates.

I now beg leave to examine the construction of the law incorporating the Bank, with a view to the action of Congress, under its present circumstances. It has been boldly asserted and assumed, that to restore the deposits to the Bank requires legislative action, in the shape of a new law: this position I deny, as I believe, upon the clearest grounds of sound and proper construction and legal interpretation. Upon the best reflection I could give to the subject, I had come to this conclusion, and I find it in accordance with high authority, both in and out of Congress. When the Committee of Ways and Means approach this subject, they see the difficulty, and endeavor to get over it, by laying hold of an idea that the Bank had no right to the deposits as matter of *contract*. They reason the point, but not with much confidence; they contend that the power given to the Secretary by the 16th sec. of the law, was a reservation of the original right, and thus not a new contract. Why, sir, a reservation, from its very nature, is a resumption, upon certain terms or conditions, of a right or power which had been granted; a grant with an unqualified reservation of part, is a legal absurdity; but a grant with a reservation under certain terms, the reservation itself is a matter of contract. A lease is made with power to re-enter in case of non-payment of rent; on default, the lessor may enter, and is in, as on his former possession; but still he obtains this as a new possession under his contract. Again, it is contended, there is no contract as to the deposits, because in the original draught of the bank law, the 16th sec. was not contained, although the 20th sec. providing for the payment of the bonus was as it now is. The reason of this was, that the deposits were secured virtually to the Bank by the 15th sec.; according to that section, all the moneys of the Government were to be disbursed through the Bank, and it was necessarily implied that they should be first deposited *there*. Before the law finally passed, it was, however, thought expedient to have a distinct section providing for that right. This act was passed as a proposal of the Government; it contains the express right of the deposits to the Bank, and in the 20th sec. declares that, in consideration of the exclusive privileges and *benefits* conferred by this act upon said Bank, the Bank shall pay to the United States fifteen hundred thousand dollars.

Upon the strength of these provisions, the stock was subscribed; and if any man can be got seriously to think or to dream that the right to the deposits was not the principal and great benefit paid for by the bonus, his conviction can never be reached by argument. Sir, the Secretary of the Treasury did not venture so far; for he declares emphatically, in his letter, that the charter is a contract in all its parts; and the committee, on the seventh page of their late report, also declare that the charter is a contract in express terms.

In analyzing the law incorporating the Bank, I find it is reducible to several distinct covenants on the part of the Government, each with its correspondent obligation on the part of the Bank, and in each case a specific appropriate remedy. One principal covenant is the contract or grant of the corporate powers during twenty years; the correspondent obligation by the Bank is, that those powers shall not be violated; the remedy agreed upon is a *scire facias*, to be issued by a court of justice, to try, before a jury, whether the charter has been violated; and, in case of violation, it may be annulled. The *scire facias* may be issued by order of the President or Congress. Another principal covenant is, on the part of the Government, to receive the notes of the Bank in payment of its dues; the correspondent obligation by the Bank is, that its notes shall always be paid in specie when required. The remedy provided in this case is an immediate act of Congress prohibiting the receipt of the notes. As the suspension of specie payments by the Bank would be a matter notorious, no intermediate agent or inquiry was necessary to the direct action of Congress. The last principal covenant, on the part of the Government, is that of the 16th section, that the deposits shall be made in the Bank or its branches; the correspondent obligation on the part of the Bank, is, that the deposits are safe, and shall be repaid on legal demand. In all deposits this is the implied but clearly established obligation, perfectly known and understood in law as well as in reason and common sense; it is not expressed, but is well understood by all; there can be no other conditions, unless they are made in express terms. Did you ever hear that, when a person deposits money in a bank, the officer expressly says, It is agreed we will keep your money safely, and repay it on demand? No, sir; this is not expressed, because it is perfectly understood and known to be the legal obligation. In all contracts, when one party actually fails to perform, the other may annul the contract. In this case, a peculiar remedy, or mode of rescinding the contract, is provided, in case of violation. By one of the articles, the Secretary of the Treasury is furnished with a weekly statement of the situation of the Bank, its debts, credits, and specie funds, in a general form. This is the evidence provided for him to act; and upon it, if he believes the Bank no longer a safe depository, able to pay on demand, he has the power to order a suspension of the deposits. This is merely an inchoate act of a cautionary nature. The Secretary has no right to rescind this important contract. Congress reserve this to themselves; and, by the express agreement of the parties, they are constituted the final umpire or arbiter in regard to the contract, and are to judge between the Bank and the act of the Secretary. The Secretary reports the fact and *his reasons* to Congress, to enable them to judge as arbiters, not in a legislative character, because no legislation is required; this is for the benefit of the Bank, as Mr. Crawford expressly asserts, in his letter on Edwards's application.* The power of Congress, then, is to confirm the reasons of the Secretary, or not. If they confirm, the contract is wholly

*See documents attached to report of Committee.

rescinded; if they do not, the right of the Bank is at once restored, and may be enforced judicially. If ordinary remedies do not reach the case, then the remedy by mandamus to the Treasurer is the appropriate one; the contract is restored, and the only remedy is of a judicial character. I hold it perfectly clear that the confirmation of the Secretary's act must be by the concurrent assent of both Houses; and that a dissent by either, both having a full opportunity and means to act, will be deemed conclusive, as to the disaffirmance of the action of the Secretary, and the full restoration of the right to the Bank. This right may for a time be withheld by the hand of power; but, sooner or later, justice must be done, and the faith of this nation will be redeemed.

As the last argumentative point, I will now briefly examine the letter or report of the Secretary of the Treasury, containing his reasons for removing the deposits. He first discusses his powers, and then applies his reasons under those powers. The authority of the Secretary, under the old law, he asserts was to ensure the safety of the public funds and their faithful application. The law incorporating the Bank he declares did not alter the former law. He afterwards enlarges his position, but without any reason assigned, and suggests that it is the duty of the Secretary to withdraw the deposits whenever the change would in any degree promote the *public interest*; and, as if this rule were not broad enough, he subsequently adopts the conditions to be whenever the *public interests and convenience* require it,* of which he is to be the judge. It is very clear that this is no rule whatever; it depends merely on opinion and undefined discretion. Here we have a singular case, whether we examine it morally or legally. An important contract is made; a heavy consideration is paid by one party for the principal benefit; and yet we find the one party declaring that this very benefit may be withheld by it, whenever its interests or convenience require it. We here see the strange absurdities to which the Secretary is driven, to find a principle broad enough to cover the reasons which he afterwards assigns. A principle, at variance with common sense and common justice, is laid down so as to include the reasons to be offered, instead of reasons furnished to meet an established principle. The Secretary does not say that the Bank is not a safe depository, willing and able to perform its engagements. No person ventures this assertion. And yet, if the views I have already submitted have any force, then the safety and the ability of the Bank to pay were the sole conditions attached to the deposits. But what are the reasons assigned? Those which appear important I will briefly examine. The substance of the first is, that, as the charter will expire in March, 1836, the Bank should close its concerns, and, as one step towards that end, the deposits be withdrawn. This is a singular reason, and requires only to be stated to expose its fallacy. Congress pass the law giving an important right and exacting important duties from the Bank, to continue until 1836. The propriety and expediency of this measure was fully considered when it was granted, so far as related to time; and now the mere agent of Congress undertakes to rejudge their act; and, as a reason to justify himself, declares it inexpedient to continue this right for that time, and therefore repeals this provision of the law. Moreover, the Secretary nowhere notices an important circumstance: that a period of two years beyond March, 1836, is expressly given by the charter to enable the Bank to collect debts and discharge its obligations. It is further stated

* See Secretary's letter, page 2.

by the Secretary, that, at the late Presidential election, the people decided what he calls the issue, and confirmed the opinions of the President as to the Bank. This, sir, is a novel and dangerous doctrine, that the election of a candidate is to confirm his opinions in regard to what the future interests of the people may require. I am glad to find that a Senator from Pennsylvania denies this conclusion. Either the present Bank, or a national bank in some proper shape, is demanded by the people of that State almost unanimously. Public improvements to be made with our surplus funds; a tariff for protection; the land bill, which would yield to the State a sum large enough to save her citizens from an oppressive tax—in all these cardinal points of her policy, the President's opinions were opposed to Pennsylvania. To suppose for a moment that, by her strong support in his election, she confirmed or assented to opinions so destructive to her best interests, would be an absurdity. If her vote had any reference to his opinions, it was that, by signally proving her attachment to him, she hoped that his views or his prejudices would change, and that, in grateful return for her support, he would favor and foster those great interests so necessary to her prosperity and her very existence.

Another reason assigned by the Secretary, for the removal of the deposits, is that relating to the three per cent. stock: this was a transaction highly useful to the public, and in nowise injurious to the Government. It was referred to Congress, who decided upon it, and were fully satisfied as to the measure; and it seems most extraordinary, that when the superior power expresses the opinion in regard to a transaction,* “that it does not call for, or admit of, any action of Congress upon it;” the mere agent should offer it, as a justification for his subsequent action.

Another reason is, what is called the French bill; a claim for interest or damages, by reason of the refusal of the French Government to pay a bill drawn by our Government, and paid or purchased by the Bank. The answer here simply is, as this claim is not yet legally determined, that if the Bank can recover the amount as a legal claim, the directors, or trustees, cannot release or relinquish it; if they do, they are themselves responsible; if it be not a legal claim, they cannot recover it; and, if they do recover it, it forms a just claim against the French Government, and must be paid ultimately by them.

The remaining reason of any consequence, which I shall notice, is, that the Bank has expended large sums of money in printing various pamphlets and publications, that interfered with the politics of the country; or, in other words, with the objects of men in power. This expenditure was made to sustain the credit of the institution, in public opinion; it had been assailed by the head of the administration, and the presses under official patronage all joined in the cry, to destroy public confidence in it, and ruin the interest of the stockholders. The directors having charge of these interests, in many cases the sole dependence of widows and orphans, believed it their duty, as it was their right, because nothing in their charter or the laws forbid it, to publish various documents and publications, showing the solid and safe condition of the Bank, the principles on which it was conducted, and the great injustice of the continued attacks upon it. No unprejudiced mind can see that the complaint on this head is, not that the Bank issued documents and publications, but that these publications were not in accordance with the plans and wishes of those in power; if they had been of a more suppliant character, you would have heard no complaint in this respect. The attacks made were

*See report of Committee of Ways and Means, 1833.

through a political channel; and to repel these attacks, and defend itself, the same channel must be, in some respects, resorted to; not for the purpose of acquiring political power, which would be useless or injurious to any institution of this kind, but to preserve and protect the rights and interests, which the laws had conferred upon its stockholders, who had no concerns with politics more than the rest of their fellow-citizens. The share of the Government in these expenditures is estimated at ten or twelve thousand dollars; and to remedy this, the Secretary removes the deposits, which, through the Bank produced to the Government more than a hundred thousand dollars a year, besides sinking the real selling value of the public stock at least a million and a half; and all this, sir, under the plea of consulting the public interests and convenience. It is also said, as a matter of complaint, that the Bank had granted large accommodations to owners of extensive printing establishments which were favorable to its interests. The Bank had, at that time, money to lend to all applicants who gave satisfactory security to the directors; and, as it is not pretended that these accommodations have been the means of excluding any other applicants, I am utterly at a loss to see the force of this reason, and can only ascribe it to the strong desire of the Secretary to invoke every feeling of party or power against this institution.

Mr. Speaker, I desire it may be distinctly understood, I appear not as the advocate of the Bank; I care not for her interests, except as they are connected with the best interests of my country; and in endeavoring to sustain her rights, I feel that I am supporting the cause of justice and of public faith, not less than the welfare of the community; for, to use the eloquent language of my distinguished colleague, [Mr. BINNEY,] the shaft which was aimed at the Bank has glanced aside, and fallen on the bosom of the country. Sir, I never held a share of the stock, nor have I ever had accommodation, loan, or favor from that source; my constituents have no connexion with the institution to warp their feelings or mine; nor do we feel any other interest in its continuance or its rights, than as we believe it beneficial to the country in producing a useful currency, and affording a credit necessary to the convenience and prosperity of the people.

According to the best reflections I have been able to give the subject, I am led to the conclusion that a recharter of the present institution, with proper modifications, will be most useful and least inconvenient: but if this should not be deemed expedient, I cheerfully go for a NATIONAL BANK, to supply the place of the present one, at the proper time, under restrictions and alterations that may be deemed unexceptionable; and, in this course, I believe I represent the general interests and opinions of my constituents.

Before I conclude, Mr. Speaker, I beg leave to submit to the House certain statements, which I think will be found interesting. Throughout this debate, and out of this House, from the highest authority to the lowest dependant on Executive favor, we have heard it daily sounded, that the Bank was a monster of avarice; grasping and fattening upon the spoils of labor and industry; a harpy preying upon the vitals of the community and the Government. By arts like these, impressions were naturally made that the stockholders were obtaining exorbitant profits. To ascertain the true state of the account, I have procured from the proper authority the exact amount of all dividends made since the commencement of the charter to this time, and find, to my astonishment, that the stockholders have received only the average dividend of \$5.31 per cent. per annum; and owing to the increase being in the last years only, the cash value of this average does not exceed 5 per

cent., a sum less than the common dividends of State banks, and less than the ordinary worth of capital in any concern of business. True it is, there is a large surplus fund; but when debts are paid and capital refunded, with losses and expenses incident to winding up such an institution, little will probably remain; certainly not enough to make up the deficient dividends.

I will now present the account as it stands between the Bank and the Government. The average amount of public deposits, from the commencement until last October, is, in round numbers, \$7,000,000; the interest of which, per annum, is \$420,000; one-fifth going to the Government on its stock, leaves to the private stockholders \$336,000 annually, as the gain from the deposits. On the other hand, the Bank has paid a bonus to the Government of \$1,500,000. This sum, on interest from the time paid and averaged, is equal to \$156,000 per annum. In addition to this, the Bank received, kept, remitted in specie funds, and disbursed the revenues, without risk, loss, expense, or charge to the Government. What were these services worth? Receivers of public moneys from land sales are allowed one per cent. on sums received and paid into the nearest bank, with \$500 in addition, probably equal in the whole to two per cent. Pension agents receiving and paying, where no branches of the Bank are fixed, are allowed, according to the Blue Book, two per cent. for the same services performed by the several branches. This is the nearest analogous case; although in those cases there is no risk nor charge of remittance. In adopting two per cent. as a reasonable rate of commission for all the services of the Bank, we may be assured that if the same services had been performed by agents and officers, the expense, risk, and losses to the public would have been double that amount. I further find that the average receipts of the revenue for the last seventeen years, according to the statistical tables, amounted to \$25,000,000, and the disbursements to the same sum, within a small fraction. The average deposits arise from the interval between receipt and payment. Two per cent. on the amount thus ascertained yields \$500,000, which, added to the bonus, amounts to \$656,000, as the value given annually by the Bank in money and services to the Government, while it receives only \$336,000. If two per cent. is deemed too high a rate, take one per cent., and still the Government is gainer to an immense amount.

According to these views, (and members may satisfy themselves of their accuracy,) we see that this institution, assailed and vilified as it has been, during its charter has annually conferred immense pecuniary advantages upon the community, besides its general benefits and advantages extending throughout the country, without even the usual return for its capital; and we also find that, instead of preying and fattening upon the Government, the public gains, in money and useful services, have been immense in amount. These considerations should at least remove our prejudices, and invoke our justice towards this much injured institution.

Sir, I have now done; and, after thanking the House for their indulgence, I have only to add the hope, that my views on this interesting and important subject may be received in the same spirit they have been offered—THE SPIRIT OF CANDOR AND HONESTY OF PURPOSE.

